IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 25802 of 2003(V)

PETITIONER:

MULAKULAM GRAMA PANCHAYATH,
MULAKULAM P.O., KOTTAYAM DISTRICT,
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:

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1. THE OMBUDSMAN FOR LOCAL SELF-GOVERNMENT INSTITUTION, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KOTTAYAM.

3. THE DEPUTY DIRECTOR OF PANCHAYATH, KOTTAYAM.

4. BIJU PALACKAL, KOOTTANIKKAL COLONY, MULAKULAM, PERUMBADAVOM P.O., PERUVA, KOTTAYAM DISTRICT.

ADDL.R5 TO R7 IMPLEADED:

ADDL.R5. THULASIDAS BLANLIN, KUTTANIKKAL PUTHIA COLONY, MULAKULAM, PERUMBADAVOM.P.O. PERUVA, KOTTAYAM DIST.

ADDL.R6. S.DAS, KUTTANIKKAL PUTHIA COLONY, DO. DO.

ADDL.R7. JOLLY PALAKKAL, KUTTANIKKAL PUTHIA COLONY, DO. DO.

ADDL RESPONDENTS IMPLEADED AS PER ORDER ON IA.13578/2003 DT.28/10/2003.

BY ADV. SRI.T.R.MADHU
GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/3/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1: TRUE COPY OF LETTER DT. 6/11/2000.

EXT.P2: TRUE COPY OF GOVT. ORDER DT. 24/7/2001.

EXT.P3: TRUE COPY OF REQUEST DT. 13/9/2002.

EXT.P4: TRUE COPY OF LETTER DT. 8/11/2002.

EXT.P5: TRUE COPY OF REPORT DT. 21/11/2002.

EXT.P6: TRUE COPY OF LETTER DCT. 18/4/2000.

EXT.P7: TRUE COPY OF VOTERS' LIST.

EXT.P8: TRUE COPY OF L ETTER DT. 7/8/2003.

EXT.P9: TRUE COPY OF COMPLAINT DT. 29/3/2001.

EXT.P10: TRUE COPY OF N OTICE DT. 25/6/2003.

EXT.P11: TRUE COPY FO ORDER DT. 9/7/2003.

A.K. Basheer, JJ.

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W.P(C) No. 25802 of 2003-V

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Dated this the 13th day of March, 2007.

J U D G M E N T

Mulakulam Grama Panchayat Secretary has filed this writ petition challenging Exts.P11 and P14 orders passed by the Ombudsman for Local Self Institutions.

2. Ext.P11 order was passed by the Ombudsman on Ext.P9 complaint which was stated to have been filed by respondent No.4 herein. By Ext.P11 order the Ombudsman directed the petitioner-Panchayat to issue ownership certificate to respondent No.4 within one month from the date of receipt of the order viz., July 9, 2003. This writ petition was filed challenging the said order.

3. On August 12, 1983 when the writ petition came up for admission, this Court had issued an order of interim stay of operation of Ext.P11 order. It was made clear that the Panchayat would be at liberty to proceed with the proposal for distribution of land earmarked for landless persons on evicting unauthorised occupants. Petitioner has a specific case that respondent No.4 had trespassed into the land earmarked by the Panchayat for distribution among the landless people and he had allegedly put up a building therein. It is in respect of that building that the Ombudsman had directed the Panahayat to issue ownership certificate.

4. It appears that later, it was brought to the notice of the Ombudsman that Ext.P11 order was not complied with by the Panchayat. The Ombudsman therefore passed Ext.P14 order directing the Secretary of the Panchayat to pay Rs.10,000/- as costs to respondents No.4 and 3 other persons. The Secretary was further

directed to entertain the applications of the 4 persons mentioned in the order and to issue ownership certificates to them within one week from the date of the order viz., August 14, 2003. Compliance report was directed to be filed within 3 days. It was further held that failure to comply with the above direction would result in initiation of proceedings against the Secretary. A copy of the said order is on record as Ext. P14.

5. Learned counsel for the petitioner submits that Ext.P14 was passed by the Ombudsman inspite of the fact that it was brought to its notice that operation of Ext.P11 had already been stayed by this Court in this writ petition. Petitioner has raised a specific contention that the Ombudsman was informed about Ext.P12 interim order passed by this Court; but nevertheless the Ombudsman had passed Ext.P14 order.

6. Having heard learned counsel for the petitioner and having perused the materials on record I am of the view that the entire matter has to be considered by the Ombudsman afresh.

7. Therefore Exts.P11 and P14 orders are set aside. It will be open to the Ombudsman to pass appropriate fresh orders if so warranted on Ext.P9 complaint after hearing the Panchayat also.

Writ Petition is disposed of in the above terms.

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A.K. Basheer
Judge.

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